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## Cancer Death Suit Won by Tobacco Firm

### Jury Refuses to Find Manufacturer Liable

MIAMI, Aug. 2 (UPI).—A federal court jury ruled today that a Miami man died as a result of smoking cigarettes for thirty years but refused to hold the American Tobacco Co. liable for his death.

The decision came after lengthy consideration of a \$1,500,000 damage suit filed by the estate of Edwin P. Green, forty-nine, who died in 1958 of lung cancer.

It was the first time such a suit, directly attacking a tobacco manufacturer over the dispute claim that cigarettes may cause lung cancer, had gone to a jury.

The jury ruled on four questions: whether Mr. Green had lung cancer; whether lung cancer caused his death; whether the lung cancer was caused by his smoking Lucky Strike cigarettes, and whether the American Tobacco Co. was liable for his death.

#### Reasoning Given

The jury answered yes on the first three questions, but no on the last. Eleven of the jurors are cigarette smokers. The twelfth does not smoke.

A court official said the jury's verdict indicated it felt that the danger of cigarettes in causing cancer was not known sufficiently in February, 1956—when Mr. Green's cancer was discovered—to hold the tobacco company liable.

This raised the interesting legal question of whether the verdict serves notice on cigarette manufacturers that they might be held liable in the future.

#### 2 Weeks of Testimony

The jury began more than ten hours of deliberation last night after hearing two weeks of testimony that included a sworn statement made by Mr. Green before he died.

The contractor's widow testified her husband's death was caused, at least in part, by his smoking two to three packs of cigarettes a day for thirty years.

In the concluding arguments, an attorney for the tobacco company said a judgment against the defendant would sound "the death knell of the industry" by opening a rash of damage suits.

#### Claims Obstruction

The attorney for Mr. Green's estate told the jury it was the

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## Jury Links Cancer To Smoker's Death

By United Press International

MIAMI, Fla., Aug. 2—A Federal Court jury ruled today that a Miami man had died as a result of smoking cigarettes for thirty years. It refused, however, to hold the cigarette manufacturer liable for his death.

The decision came after lengthy consideration of a \$1,500,000 damage suit filed by the estate of Edwin P. Green, who died at 49 in 1958 of lung cancer. It was the first time such a suit, directly attacking a tobacco manufacturer on the ground that cigarettes had caused lung cancer, had gone to a jury.

The jury ruled on four questions: whether Mr. Green had lung cancer; whether lung cancer caused his death; whether the lung cancer was caused by his smoking Lucky Strike cigarettes, and whether the Ameri-

can Tobacco Company, the cigarette maker, was liable for his death.

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In the concluding arguments, an attorney for the tobacco company said a judgment against the defendant would sound "the death knell of the industry" by opening a rash of damage suits.

The attorney for Mr. Green's estate told the jury it was the first to judge such a case because "every obstruction in the world has been put in the way of the case getting this far."

Eleven of the jurors smoke cigarettes.

A similar damage suit against the Liggett & Myers Tobacco Company at Pittsburgh ended in May when the judge ordered a directed verdict against the plaintiff in a \$1,250,000 damage suit filed by Otto Pritchard, a Pittsburgh cabinet maker. Mr. Pritchard contended he had contracted lung cancer from smoking Chesterfield cigarettes for twenty-five years.

#### Company Sees Vindication

Alfred F. Dowden, vice president of the American Tobacco Company, said last night:

"It is gratifying that the first jury to decide a lung cancer case has returned a verdict in favor of our company. Testimony by doctors and scientists during the trial brought out the fact that the theory of cigarette smoking as the cause of cancer of the lung is not substantiated."

"No one knows the cause or causes of cancer of the lung or any kind of human cancer and the answer will be found only in the laboratories of scientists."

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## Tobacco Firm Absolved in Cancer Death

Miami, Fla., Aug. 3 (AP).—Smoking is at least a factor in lung cancer, a federal jury has decided, but it refused to blame the cigaret maker.

The jury declined yesterday to assess any damages against the American Tobacco Co. The Estate of Edwin Green, who died of lung cancer, had asked more than \$1,000,000.

The plaintiff contended Green developed cancer of the left lung as a heavy smoker for 30 years of the firm's Lucky Strikes, with an occasional switch to other brands when he couldn't get his choice. Green, himself, actually started the suit before his death.

American Tobacco challenges lung cancer as cause of Green's death at age 49 in 1958. It also disputed that smoking causes cancer.

#### Proximate Cause

The jury found yesterday, after eight hours of deliberation, that Green's smoking was "a proximate cause or one of the proximate causes of the development of cancer in his left lung."

It ruled, however, that the manufacturer could not be held responsible prior to the cancer diagnosis Feb. 1, 1956, for knowledge of any danger involved in smoking the cigarette.

It was brought out in the trial that Green did not smoke again after the cancer diagnosis.

The jury's verdict was termed gratifying by Alfred F. Bowden, vice president of American Tobacco.

Bowden said, "testimony by doctors and scientists during the trial brought out the fact that the theory of cigaret smoking as the cause of cancer of the lung is not substantiated."

#### Earlier Case

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An earlier, similar case, in Pittsburgh, Pa., resulted in a directed verdict. Otto Pritchard, 61, sued the Liggett & Myers Tobacco Co. for \$1,250,000, alleging the company's Chesterfields were his steady cigarets for 29 years prior to his 1953 operation for lung cancer.

U. S. District Court Judge John L. Miller ordered the jury to return a verdict in favor of the company after hearing 20 days of testimony.